

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Iowa Administrative Code.

This amendment is proposed as a result of 2008 Iowa Acts, Senate File 2428, section 23. The proposed amendment adds new rule 701—12.10(423) pertaining to the statute of limitations on sales and use tax transactions involving the furnishing of lawn care, landscaping, and tree trimming and removal services which occurred more than five years prior to the date of an audit.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 10, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before October 28, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 29, 2008.

This amendment is intended to implement Iowa Code section 423.31 as amended by 2008 Iowa Acts, Senate File 2428, section 23.

The following amendment is proposed.

Adopt the following **new** rule 701—12.10(423):

701—12.10(423) Audit limitation for certain services.

12.10(1) Definitions. For purposes of this rule, the following definitions shall govern:

"Landscaping" means the same as defined in rule 701—26.62(423).

"Lawn care" means the same as defined in rule 701—26.61(423).

"Tree trimming and removal" means the same as defined in rule 701—26.66(423).

12.10(2) Audit limitation for lawn care, landscaping, and tree trimming and removal services. Notwithstanding any other provision of the Iowa Code to the contrary, the department shall not attempt to collect delinquent sales tax or use tax on a transaction involving the furnishing of lawn

care, landscaping, or tree trimming and removal services which occurred more than five years prior to the date of an audit. The date an audit will begin is when the department presents notification that the person is being contacted for an audit.

This rule is intended to implement Iowa Code section 423.31 as amended by 2008 Iowa Acts, Senate File 2428, section 23.